## SECOND REGULAR SESSION HOUSE COMMITTEE SUBSTITUTE FOR SENATE COMMITTEE SUBSTITUTE FOR

## SENATE BILL NOS. 930 & 947

## 94TH GENERAL ASSEMBLY

Reported from the Committee on Transportation April 23, 2008 with recommendation that House Committee Substitute for Senate Committee Substitute for Senate Bill Nos. 930 & 947 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

4251L.05C

## AN ACT

To repeal sections 144.030, 144.805, 155.010, 301.040, 301.130, 302.060, 302.171, 302.177, 302.720, 302.735, 304.015, 304.180, 304.230, 305.230, and 577.023, RSMo, and to enact in lieu thereof twenty-four new sections relating to transportation issues, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 144.030, 144.805, 155.010, 301.040, 301.130, 302.060, 302.171,

- 2 302.177, 302.720, 302.735, 304.015, 304.180, 304.230, 305.230, and 577.023, RSMo, are
- 3 repealed and twenty-four new sections enacted in lieu thereof, to be known as sections 144.030,
- 4 144.805, 155.010, 227.102, 227.103, 227.396, 227.400, 301.040, 301.130, 302.060, 302.063,
- 5 302.171, 302.177, 302.720, 302.735, 304.015, 304.180, 304.230, 304.232, 304.590, 305.230,
- 6 390.021, 390.372, and 577.023, to read as follows:
  - 144.030. 1. There is hereby specifically exempted from the provisions of sections
- 2 144.010 to 144.525 and from the computation of the tax levied, assessed or payable pursuant to
- 3 sections 144.010 to 144.525 such retail sales as may be made in commerce between this state
- 4 and any other state of the United States, or between this state and any foreign country, and any
- 5 retail sale which the state of Missouri is prohibited from taxing pursuant to the Constitution or
- 6 laws of the United States of America, and such retail sales of tangible personal property which

the general assembly of the state of Missouri is prohibited from taxing or further taxing by the constitution of this state.

- 2. There are also specifically exempted from the provisions of the local sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525 and 144.600 to 144.761 and from the computation of the tax levied, assessed or payable pursuant to the local sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525 and 144.600 to 144.745:
- (1) Motor fuel or special fuel subject to an excise tax of this state, unless all or part of such excise tax is refunded pursuant to section 142.824, RSMo; or upon the sale at retail of fuel to be consumed in manufacturing or creating gas, power, steam, electrical current or in furnishing water to be sold ultimately at retail; or feed for livestock or poultry; or grain to be converted into foodstuffs which are to be sold ultimately in processed form at retail; or seed, limestone or fertilizer which is to be used for seeding, liming or fertilizing crops which when harvested will be sold at retail or will be fed to livestock or poultry to be sold ultimately in processed form at retail; economic poisons registered pursuant to the provisions of the Missouri pesticide registration law (sections 281.220 to 281.310, RSMo) which are to be used in connection with the growth or production of crops, fruit trees or orchards applied before, during, or after planting, the crop of which when harvested will be sold at retail or will be converted into foodstuffs which are to be sold ultimately in processed form at retail;
- (2) Materials, manufactured goods, machinery and parts which when used in manufacturing, processing, compounding, mining, producing or fabricating become a component part or ingredient of the new personal property resulting from such manufacturing, processing, compounding, mining, producing or fabricating and which new personal property is intended to be sold ultimately for final use or consumption; and materials, including without limitation, gases and manufactured goods, including without limitation, slagging materials and firebrick, which are ultimately consumed in the manufacturing process by blending, reacting or interacting with or by becoming, in whole or in part, component parts or ingredients of steel products intended to be sold ultimately for final use or consumption;
- (3) Materials, replacement parts and equipment purchased for use directly upon, and for the repair and maintenance or manufacture of, motor vehicles, watercraft, railroad rolling stock or aircraft engaged as common carriers of persons or property;
- (4) Replacement machinery, equipment, and parts and the materials and supplies solely required for the installation or construction of such replacement machinery, equipment, and parts, used directly in manufacturing, mining, fabricating or producing a product which is intended to be sold ultimately for final use or consumption; and machinery and equipment, and the materials and supplies required solely for the operation, installation or construction of such machinery and equipment, purchased and used to establish new, or to replace or expand existing,

material recovery processing plants in this state. For the purposes of this subdivision, a "material recovery processing plant" means a facility that has as its primary purpose the recovery of materials into a useable product or a different form which is used in producing a new product and shall include a facility or equipment which are used exclusively for the collection of recovered materials for delivery to a material recovery processing plant but shall not include motor vehicles used on highways. For purposes of this section, the terms motor vehicle and highway shall have the same meaning pursuant to section 301.010, RSMo. Material recovery is not the reuse of materials within a manufacturing process or the use of a product previously recovered. The material recovery processing plant shall qualify under the provisions of this section regardless of ownership of the material being recovered; 

- (5) Machinery and equipment, and parts and the materials and supplies solely required for the installation or construction of such machinery and equipment, purchased and used to establish new or to expand existing manufacturing, mining or fabricating plants in the state if such machinery and equipment is used directly in manufacturing, mining or fabricating a product which is intended to be sold ultimately for final use or consumption;
- (6) Tangible personal property which is used exclusively in the manufacturing, processing, modification or assembling of products sold to the United States government or to any agency of the United States government;
  - (7) Animals or poultry used for breeding or feeding purposes;
- (8) Newsprint, ink, computers, photosensitive paper and film, toner, printing plates and other machinery, equipment, replacement parts and supplies used in producing newspapers published for dissemination of news to the general public;
- (9) The rentals of films, records or any type of sound or picture transcriptions for public commercial display;
- (10) Pumping machinery and equipment used to propel products delivered by pipelines engaged as common carriers;
- (11) Railroad rolling stock for use in transporting persons or property in interstate commerce and motor vehicles licensed for a gross weight of twenty-four thousand pounds or more or trailers used by common carriers, as defined in section 390.020, RSMo, in the transportation of persons or property;
- (12) Electrical energy used in the actual primary manufacture, processing, compounding, mining or producing of a product, or electrical energy used in the actual secondary processing or fabricating of the product, or a material recovery processing plant as defined in subdivision (4) of this subsection, in facilities owned or leased by the taxpayer, if the total cost of electrical energy so used exceeds ten percent of the total cost of production, either primary or secondary, exclusive of the cost of electrical energy so used or if the raw materials used in such processing contain at least twenty-five percent recovered materials as defined in section 260.200, RSMo.

- There shall be a rebuttable presumption that the raw materials used in the primary manufacture of automobiles contain at least twenty-five percent recovered materials. For purposes of this subdivision, "processing" means any mode of treatment, act or series of acts performed upon materials to transform and reduce them to a different state or thing, including treatment necessary to maintain or preserve such processing by the producer at the production facility;
  - (13) Anodes which are used or consumed in manufacturing, processing, compounding, mining, producing or fabricating and which have a useful life of less than one year;
  - (14) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring air pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices, and so certified as such by the director of the department of natural resources, except that any action by the director pursuant to this subdivision may be appealed to the air conservation commission which may uphold or reverse such action;
  - (15) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring water pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices, and so certified as such by the director of the department of natural resources, except that any action by the director pursuant to this subdivision may be appealed to the Missouri clean water commission which may uphold or reverse such action;
    - (16) Tangible personal property purchased by a rural water district;
  - (17) All amounts paid or charged for admission or participation or other fees paid by or other charges to individuals in or for any place of amusement, entertainment or recreation, games or athletic events, including museums, fairs, zoos and planetariums, owned or operated by a municipality or other political subdivision where all the proceeds derived therefrom benefit the municipality or other political subdivision and do not inure to any private person, firm, or corporation;
  - (18) All sales of insulin and prosthetic or orthopedic devices as defined on January 1, 1980, by the federal Medicare program pursuant to Title XVIII of the Social Security Act of 1965, including the items specified in Section 1862(a)(12) of that act, and also specifically including hearing aids and hearing aid supplies and all sales of drugs which may be legally dispensed by a licensed pharmacist only upon a lawful prescription of a practitioner licensed to administer those items, including samples and materials used to manufacture samples which may be dispensed by a practitioner authorized to dispense such samples and all sales of medical oxygen, home respiratory equipment and accessories, hospital beds and accessories and ambulatory aids, all sales of manual and powered wheelchairs, stairway lifts, Braille writers, electronic Braille equipment and, if purchased by or on behalf of a person with one or more physical or mental disabilities to enable them to function more independently, all sales of

scooters, reading machines, electronic print enlargers and magnifiers, electronic alternative and augmentative communication devices, and items used solely to modify motor vehicles to permit the use of such motor vehicles by individuals with disabilities or sales of over-the-counter or nonprescription drugs to individuals with disabilities;

- (19) All sales made by or to religious and charitable organizations and institutions in their religious, charitable or educational functions and activities and all sales made by or to all elementary and secondary schools operated at public expense in their educational functions and activities;
- (20) All sales of aircraft to common carriers for storage or for use in interstate commerce and all sales made by or to not-for-profit civic, social, service or fraternal organizations, including fraternal organizations which have been declared tax-exempt organizations pursuant to Section 501(c)(8) or (10) of the 1986 Internal Revenue Code, as amended, in their civic or charitable functions and activities and all sales made to eleemosynary and penal institutions and industries of the state, and all sales made to any private not-for-profit institution of higher education not otherwise excluded pursuant to subdivision (19) of this subsection or any institution of higher education supported by public funds, and all sales made to a state relief agency in the exercise of relief functions and activities;
- (21) All ticket sales made by benevolent, scientific and educational associations which are formed to foster, encourage, and promote progress and improvement in the science of agriculture and in the raising and breeding of animals, and by nonprofit summer theater organizations if such organizations are exempt from federal tax pursuant to the provisions of the Internal Revenue Code and all admission charges and entry fees to the Missouri state fair or any fair conducted by a county agricultural and mechanical society organized and operated pursuant to sections 262.290 to 262.530, RSMo;
- (22) All sales made to any private not-for-profit elementary or secondary school, all sales of feed additives, medications or vaccines administered to livestock or poultry in the production of food or fiber, all sales of pesticides used in the production of crops, livestock or poultry for food or fiber, all sales of bedding used in the production of livestock or poultry for food or fiber, all sales of propane or natural gas, electricity or diesel fuel used exclusively for drying agricultural crops, natural gas used in the primary manufacture or processing of fuel ethanol as defined in section 142.028, RSMo, natural gas, propane, and electricity used by an eligible new generation cooperative or an eligible new generation processing entity as defined in section 348.432, RSMo, and all sales of farm machinery and equipment, other than airplanes, motor vehicles and trailers. As used in this subdivision, the term "feed additives" means tangible personal property which, when mixed with feed for livestock or poultry, is to be used in the feeding of livestock or poultry. As used in this subdivision, the term "pesticides" includes adjuvants such as crop oils, surfactants, wetting agents and other assorted pesticide carriers used

to improve or enhance the effect of a pesticide and the foam used to mark the application of pesticides and herbicides for the production of crops, livestock or poultry. As used in this subdivision, the term "farm machinery and equipment" means new or used farm tractors and such other new or used farm machinery and equipment and repair or replacement parts thereon, and supplies and lubricants used exclusively, solely, and directly for producing crops, raising and feeding livestock, fish, poultry, pheasants, chukar, quail, or for producing milk for ultimate sale at retail, including field drain tile, and one-half of each purchaser's purchase of diesel fuel therefor which is:

- (a) Used exclusively for agricultural purposes;
- (b) Used on land owned or leased for the purpose of producing farm products; and
- (c) Used directly in producing farm products to be sold ultimately in processed form or otherwise at retail or in producing farm products to be fed to livestock or poultry to be sold ultimately in processed form at retail;
- (23) Except as otherwise provided in section 144.032, all sales of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil for domestic use and in any city not within a county, all sales of metered or unmetered water service for domestic use:
- (a) "Domestic use" means that portion of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil, and in any city not within a county, metered or unmetered water service, which an individual occupant of a residential premises uses for nonbusiness, noncommercial or nonindustrial purposes. Utility service through a single or master meter for residential apartments or condominiums, including service for common areas and facilities and vacant units, shall be deemed to be for domestic use. Each seller shall establish and maintain a system whereby individual purchases are determined as exempt or nonexempt;
- (b) Regulated utility sellers shall determine whether individual purchases are exempt or nonexempt based upon the seller's utility service rate classifications as contained in tariffs on file with and approved by the Missouri public service commission. Sales and purchases made pursuant to the rate classification "residential" and sales to and purchases made by or on behalf of the occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, shall be considered as sales made for domestic use and such sales shall be exempt from sales tax. Sellers shall charge sales tax upon the entire amount of purchases classified as nondomestic use. The seller's utility service rate classification and the provision of service thereunder shall be conclusive as to whether or not the utility must charge sales tax;
- (c) Each person making domestic use purchases of services or property and who uses any portion of the services or property so purchased for a nondomestic use shall, by the fifteenth

day of the fourth month following the year of purchase, and without assessment, notice or demand, file a return and pay sales tax on that portion of nondomestic purchases. Each person making nondomestic purchases of services or property and who uses any portion of the services or property so purchased for domestic use, and each person making domestic purchases on behalf of occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, under a nonresidential utility service rate classification may, between the first day of the first month and the fifteenth day of the fourth month following the year of purchase, apply for credit or refund to the director of revenue and the director shall give credit or make refund for taxes paid on the domestic use portion of the purchase. The person making such purchases on behalf of occupants of residential apartments or condominiums shall have standing to apply to the director of revenue for such credit or refund;

- (24) All sales of handicraft items made by the seller or the seller's spouse if the seller or the seller's spouse is at least sixty-five years of age, and if the total gross proceeds from such sales do not constitute a majority of the annual gross income of the seller;
- (25) Excise taxes, collected on sales at retail, imposed by Sections 4041, 4061, 4071, 4081, 4091, 4161, 4181, 4251, 4261 and 4271 of Title 26, United States Code. The director of revenue shall promulgate rules pursuant to chapter 536, RSMo, to eliminate all state and local sales taxes on such excise taxes;
- (26) Sales of fuel consumed or used in the operation of ships, barges, or waterborne vessels which are used primarily in or for the transportation of property or cargo, or the conveyance of persons for hire, on navigable rivers bordering on or located in part in this state, if such fuel is delivered by the seller to the purchaser's barge, ship, or waterborne vessel while it is afloat upon such river;
- (27) All sales made to an interstate compact agency created pursuant to sections 70.370 to 70.441, RSMo, or sections 238.010 to 238.100, RSMo, in the exercise of the functions and activities of such agency as provided pursuant to the compact;
- (28) Computers, computer software and computer security systems purchased for use by architectural or engineering firms headquartered in this state. For the purposes of this subdivision, "headquartered in this state" means the office for the administrative management of at least four integrated facilities operated by the taxpayer is located in the state of Missouri;
- (29) All livestock sales when either the seller is engaged in the growing, producing or feeding of such livestock, or the seller is engaged in the business of buying and selling, bartering or leasing of such livestock;
- (30) All sales of barges which are to be used primarily in the transportation of property or cargo on interstate waterways;

- 228 (31) Electrical energy or gas, whether natural, artificial or propane, water, or other 229 utilities which are ultimately consumed in connection with the manufacturing of cellular glass 230 products or in any material recovery processing plant as defined in subdivision (4) of this 231 subsection;
  - (32) Notwithstanding other provisions of law to the contrary, all sales of pesticides or herbicides used in the production of crops, aquaculture, livestock or poultry;
  - (33) Tangible personal property and utilities purchased for use or consumption directly or exclusively in the research and development of agricultural/biotechnology and plant genomics products and prescription pharmaceuticals consumed by humans or animals;
    - (34) All sales of grain bins for storage of grain for resale;
  - (35) All sales of feed which are developed for and used in the feeding of pets owned by a commercial breeder when such sales are made to a commercial breeder, as defined in section 273.325, RSMo, and licensed pursuant to sections 273.325 to 273.357, RSMo;
  - (36) All purchases by a contractor on behalf of an entity located in another state, provided that the entity is authorized to issue a certificate of exemption for purchases to a contractor under the provisions of that state's laws. For purposes of this subdivision, the term "certificate of exemption" shall mean any document evidencing that the entity is exempt from sales and use taxes on purchases pursuant to the laws of the state in which the entity is located. Any contractor making purchases on behalf of such entity shall maintain a copy of the entity's exemption certificate as evidence of the exemption. If the exemption certificate issued by the exempt entity to the contractor is later determined by the director of revenue to be invalid for any reason and the contractor has accepted the certificate in good faith, neither the contractor or the exempt entity shall be liable for the payment of any taxes, interest and penalty due as the result of use of the invalid exemption certificate. Materials shall be exempt from all state and local sales and use taxes when purchased by a contractor for the purpose of fabricating tangible personal property which is used in fulfilling a contract for the purpose of constructing, repairing or remodeling facilities for the following:
  - (a) An exempt entity located in this state, if the entity is one of those entities able to issue project exemption certificates in accordance with the provisions of section 144.062; or
  - (b) An exempt entity located outside the state if the exempt entity is authorized to issue an exemption certificate to contractors in accordance with the provisions of that state's law and the applicable provisions of this section;
  - (37) All sales or other transfers of tangible personal property to a lessor who leases the property under a lease of one year or longer executed or in effect at the time of the sale or other transfer to an interstate compact agency created pursuant to sections 70.370 to 70.441, RSMo, or sections 238.010 to 238.100, RSMo;

265

266

267

268

269

270

271

272

273

274

14

15

17

18

19

20

21

22

23

- (38) Sales of tickets to any collegiate athletic championship event that is held in a facility owned or operated by a governmental authority or commission, a quasi-governmental agency, a state university or college or by the state or any political subdivision thereof, including a municipality, and that is played on a neutral site and may reasonably be played at a site located outside the state of Missouri. For purposes of this subdivision, "neutral site" means any site that is not located on the campus of a conference member institution participating in the event;
  - (39) All purchases by a sports complex authority created under section 64.920, RSMo;
- (40) Beginning January 1, 2009, but not after January 1, 2015, materials, replacement parts, and equipment purchased for use directly upon, and for the modification, replacement, repair, and maintenance of aircraft, aircraft power plants, and aircraft accessories.
- 144.805. 1. In addition to the exemptions granted pursuant to the provisions of section 144.030, there shall also be specifically exempted from the provisions of sections 144.010 to 3 144.525, sections 144.600 to 144.748, and section 238.235, RSMo, and the provisions of any local sales tax law, as defined in section 32.085, RSMo, and from the computation of the tax levied, assessed or payable pursuant to sections 144.010 to 144.525, sections 144.600 to 144.748, and section 238.235, RSMo, and the provisions of any local sales tax law, as defined in section 32.085, RSMo, all sales of aviation jet fuel in a given calendar year to common 8 carriers engaged in the interstate air transportation of passengers and cargo, and the storage, use and consumption of such aviation jet fuel by such common carriers, if such common carrier has 10 first paid to the state of Missouri, in accordance with the provisions of this chapter, state sales 11 and use taxes pursuant to the foregoing provisions and applicable to the purchase, storage, use 12 or consumption of such aviation jet fuel in a maximum and aggregate amount of one million five 13 hundred thousand dollars of state sales and use taxes in such calendar year.
  - 2. To qualify for the exemption prescribed in subsection 1 of this section, the common carrier shall furnish to the seller a certificate in writing to the effect that an exemption pursuant to this section is applicable to the aviation jet fuel so purchased, stored, used and consumed. The director of revenue shall permit any such common carrier to enter into a direct-pay agreement with the department of revenue, pursuant to which such common carrier may pay directly to the department of revenue any applicable sales and use taxes on such aviation jet fuel up to the maximum aggregate amount of one million five hundred thousand dollars in each calendar year. The director of revenue shall adopt appropriate rules and regulations to implement the provisions of this section, and to permit appropriate claims for refunds of any excess sales and use taxes collected in calendar year 1993 or any subsequent year with respect to any such common carrier and aviation jet fuel.
- 3. The provisions of this section shall apply to all purchases and deliveries of aviation jet fuel from and after May 10, 1993.

2

3

4

7

12

13

4

10

11

12

13

14

- 4. All sales and use tax revenues upon aviation jet fuel received pursuant to this chapter, less the amounts specifically designated pursuant to the constitution or pursuant to section 144.701 for other purposes, shall be deposited to the credit of the aviation trust fund established pursuant to section [305.230] 155.090, RSMo[; provided however, the amount of such state sales and use tax revenues deposited to the credit of such aviation trust fund shall not exceed six million dollars in each calendar year].
  - 5. The provisions of this section and section 144.807 shall expire on December 31, 2013. 155.010. As used in this chapter, the following terms mean:
  - (1) "Aircraft", any contrivance now known, or hereafter invented, used or designed for navigation of, or flight in, the air;
  - (2) "Airline company", any person, firm, partnership, corporation, trustee, receiver or assignee, and all other persons, whether or not in a representative capacity, undertaking to engage in the carriage of persons or cargo for hire by commercial aircraft pursuant to certificates of convenience and necessity issued by the federal Civil Aeronautics Board, or successor thereof, or any noncertificated air carrier authorized to engage in irregular and infrequent air transportation by the federal Civil Aeronautics Board, or successor thereof;
- 10 (3) "Aviation fuel", any fuel specifically compounded for use in reciprocating aircraft 11 engines;
  - (4) "Commercial aircraft", aircraft fully equipped for flight and of more than [seven] three thousand pounds maximum certified gross take-off weight.
  - 227.102. 1. Notwithstanding any other provision of law to the contrary, the commission is authorized to receive bids and bid bonds for any contract for construction, maintenance, repair, or improvement of any bridge or highway on the state highway system electronically via the Internet. Such electronically submitted bids and bid bonds shall contain digital signatures and seals, and all other required bid information and certifications, in accordance with commission administrative rules, sections 432.200 to 432.295, RSMo, and with any applicable federal competitive bidding requirements. At its discretion, the commission may elect to receive both electronic and paper bids, or the commission may specify electronic bidding exclusively for any proposed contract.
  - 2. Any electronic bidding program or service implemented by the commission and the electronic bid and bid bond vendor shall meet the following criteria, at a minimum:
  - (1) Each bidder must be able to transmit an electronic bid and bid bond securely and confidentially through bid encryption or other protection measures;
  - (2) Each bidder must receive prompt confirmation of the timely electronic filing of the bidder's bid and bid bond;
- 16 (3) Each bidder must be able to withdraw or replace the bidder's filed electronic 17 bid and bid bond prior to the time bids are opened;

- 18 (4) Each bid filed electronically must be inaccessible or unreadable to all others 19 except for the bidder prior to the time bids are opened;
  - (5) The portal for filing bids must have a mechanism to block any additional bids or modifications to bids when bids are scheduled to be opened; and
  - (6) Commission representatives and officials of the department of transportation must have full and immediate access to the bids and bid bonds at the time bids are designated to be opened, but not prior to that time.
  - 3. The commission is authorized to promulgate administrative rules to administer the provisions in this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.
  - 227.103. 1. Notwithstanding any other provision of law to the contrary, the commission is authorized to accept an annual bid bond for its construction and maintenance projects. The commission shall prescribe the form and content of an annual bid bond under the provisions set forth in the Missouri standard specifications for highway construction, or its successor.
  - 2. The commission is authorized to promulgate administrative rules to administer the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.
- 227.396. Notwithstanding any provision of section 227.299 to the contrary, the portion of Missouri Route WW located within Boone County, beginning with its intersection with U.S. Highway 63 and proceeding east to its intersection with South Olivet Road, shall be designated "Carl Edwards Drive".

11

12

13 14

15 16

17

18

19

20

21

22

23

227.400. The portion of Interstate 44 from mile marker 280 to mile marker 282 in St. Louis County shall be designated the "Police Officer Robert Stanze Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with the costs to be paid for by private donation.

301.040. The director of revenue shall notify each registered motor vehicle owner by mail, at the last known address, within an appropriate period prior to the beginning of the registration period to which he has been assigned, of the date for reregistration. Such notice shall include an application blank for registration and shall specify the amount of license fees 5 due and the registration period covered by such license. No commercial inserts or other forms of advertising shall accompany the notice. Application blanks shall also be furnished all branch offices of the department of revenue and license fee offices designated by the director of revenue under the provisions of section 136.055, RSMo, where they shall be made available to any person upon request. Failure of the owner to receive such notice shall not relieve the owner of the requirement to register pursuant to this chapter.

301.130. 1. The director of revenue, upon receipt of a proper application for registration, required fees and any other information which may be required by law, shall issue to the applicant a certificate of registration in such manner and form as the director of revenue 4 may prescribe and a set of license plates, or other evidence of registration, as provided by this 5 section. Each set of license plates shall bear the name or abbreviated name of this state, the words "SHOW-ME STATE", the month and year in which the registration shall expire, and an arrangement of numbers or letters, or both, as shall be assigned from year to year by the director of revenue. The plates shall also contain fully reflective material with a common color scheme and design for each type of license plate issued pursuant to this chapter. The plates shall be clearly visible at night, and shall be aesthetically attractive. Special plates for qualified disabled veterans will have the "DISABLED VETERAN" wording on the license plates in preference to the words "SHOW-ME STATE" and special plates for members of the national guard will have the "NATIONAL GUARD" wording in preference to the words "SHOW-ME STATE".

- 2. The arrangement of letters and numbers of license plates shall be uniform throughout each classification of registration. The director may provide for the arrangement of the numbers in groups or otherwise, and for other distinguishing marks on the plates.
- 3. All property-carrying commercial motor vehicles to be registered at a gross weight in excess of twelve thousand pounds, all passenger-carrying commercial motor vehicles, local transit buses, school buses, trailers, semitrailers, motorcycles, motortricycles, motorscooters and driveaway vehicles shall be registered with the director of revenue as provided for in subsection 3 of section 301.030, or with the state highways and transportation commission as otherwise provided in this chapter, but only one license plate shall be issued for each such vehicle [except as provided in this subsection. The applicant for registration of any property-carrying

28

29

30

31

32

33

34

35 36

37 38

39

40

41

42

43 44

45

46 47

48

49 50

51 52

53

54

55

56

57

58

59

60

24 commercial motor vehicle may request and be issued two license plates for such vehicle, and if such plates are issued the director of revenue may assess and collect an additional charge from 26 the applicant in an amount not to exceed the fee prescribed for personalized license plates in 27 subsection 1 of section 301.144].

- 4. The plates issued to manufacturers and dealers shall bear the letters and numbers as prescribed by section 301.560, and the director may place upon the plates other letters or marks to distinguish commercial motor vehicles and trailers and other types of motor vehicles.
- 5. No motor vehicle or trailer shall be operated on any highway of this state unless it shall have displayed thereon the license plate or set of license plates issued by the director of revenue or the state highways and transportation commission and authorized by section 301.140. Each such plate shall be securely fastened to the motor vehicle or trailer in a manner so that all parts thereof shall be plainly visible and reasonably clean so that the reflective qualities thereof are not impaired. Each such plate may be encased in a transparent cover so long as the plate is plainly visible and its reflective qualities are not impaired. License plates shall be fastened to all motor vehicles except trucks, tractors, truck tractors or truck-tractors licensed in excess of twelve thousand pounds on the front and rear of such vehicles not less than eight nor more than forty-eight inches above the ground, with the letters and numbers thereon right side up. The license plates on trailers, motorcycles, motortricycles and motorscooters shall be displayed on the rear of such vehicles, with the letters and numbers thereon right side up. The license plate on buses, other than school buses, and on trucks, tractors, truck tractors or truck-tractors licensed in excess of twelve thousand pounds shall be displayed on the front of such vehicles not less than eight nor more than forty-eight inches above the ground, with the letters and numbers thereon right side up or if two plates are issued for the vehicle pursuant to subsection 3 of this section, displayed in the same manner on the front and rear of such vehicles. The license plate or plates authorized by section 301.140, when properly attached, shall be prima facie evidence that the required fees have been paid.
- 6. (1) The director of revenue shall issue annually or biennially a tab or set of tabs as provided by law as evidence of the annual payment of registration fees and the current registration of a vehicle in lieu of the set of plates. Beginning January 1, 2010, the director may prescribe any additional information recorded on the tab or tabs to ensure that the tab or tabs positively correlate with the license plate or plates issued by the department of revenue for such vehicle. Such tabs shall be produced in each license bureau office.
- (2) The vehicle owner to whom a tab or set of tabs is issued shall affix and display such tab or tabs in the designated area of the license plate, no more than one per plate.
- (3) A tab or set of tabs issued by the director of revenue when attached to a vehicle in the prescribed manner shall be prima facie evidence that the registration fee for such vehicle has been paid.

- 61 (4) Except as otherwise provided in this section, the director of revenue shall issue plates 62 for a period of at least six years.
  - (5) For those commercial motor vehicles and trailers registered pursuant to section 301.041, the plate issued by the highways and transportation commission shall be a permanent nonexpiring license plate for which no tabs shall be issued. Nothing in this section shall relieve the owner of any vehicle permanently registered pursuant to this section from the obligation to pay the annual registration fee due for the vehicle. The permanent nonexpiring license plate shall be returned to the highways and transportation commission upon the sale or disposal of the vehicle by the owner to whom the permanent nonexpiring license plate is issued, or the plate may be transferred to a replacement commercial motor vehicle when the owner files a supplemental application with the Missouri highways and transportation commission for the registration of such replacement commercial motor vehicle. Upon payment of the annual registration fee, the highways and transportation commission shall issue a certificate of registration or other suitable evidence of payment of the annual fee, and such evidence of payment shall be carried at all times in the vehicle for which it is issued.
  - (6) Upon the sale or disposal of any vehicle permanently registered under this section, or upon the termination of a lease of any such vehicle, the permanent nonexpiring plate issued for such vehicle shall be returned to the highways and transportation commission and shall not be valid for operation of such vehicle, or the plate may be transferred to a replacement vehicle when the owner files a supplemental application with the Missouri highways and transportation commission for the registration of such replacement vehicle. If a vehicle which is permanently registered under this section is sold, wrecked or otherwise disposed of, or the lease terminated, the registrant shall be given credit for any unused portion of the annual registration fee when the vehicle is replaced by the purchase or lease of another vehicle during the registration year.
  - 7. The director of revenue and the highways and transportation commission may prescribe rules and regulations for the effective administration of this section. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.
  - 8. Notwithstanding the provisions of any other law to the contrary, owners of motor vehicles other than apportioned motor vehicles or commercial motor vehicles licensed in excess of eighteen thousand pounds gross weight may apply for special personalized license plates. Vehicles licensed for eighteen thousand pounds that display special personalized license plates shall be subject to the provisions of subsections 1 and 2 of section 301.030.
  - 9. No later than January 1, 2009, the director of revenue shall commence the reissuance of new license plates of such design as directed by the director consistent with the terms, conditions, and provisions of this section and this chapter. Except as otherwise provided in this section, in addition to all other fees required by law, applicants for registration of vehicles with

3

5

6

8

1011

12

13 14

15

16

17

18

19

20

21

2223

24

25

26

27

98 license plates that expire during the period of reissuance, applicants for registration of trailers or semitrailers with license plates that expire during the period of reissuance and applicants for 100 registration of vehicles that are to be issued new license plates during the period of reissuance 101 shall pay the cost of the plates required by this subsection. The additional cost prescribed in this 102 subsection shall not be charged to persons receiving special license plates issued under section 301.073 or 301.443. Historic motor vehicle license plates registered pursuant to section 301.131 103 104 and specialized license plates are exempt from the provisions of this subsection. Except for new, replacement, and transfer applications, permanent nonexpiring license plates issued 105 106 to commercial motor vehicles and trailers registered under section 301.041 are exempt 107 from the provisions of this subsection.

302.060. The director shall not issue any license and shall immediately deny any driving privilege:

- (1) To any person who is under the age of eighteen years, if such person operates a motor vehicle in the transportation of persons or property as classified in section 302.015;
- (2) To any person who is under the age of sixteen years, or to any person who is under eighteen years of age who fails to meet the qualifications of section 302.063, except as [hereinafter] provided by this section;
- (3) To any person whose license has been suspended, during such suspension, or to any person whose license has been revoked, until the expiration of one year after such license was revoked;
  - (4) To any person who is an habitual drunkard or is addicted to the use of narcotic drugs;
- (5) To any person who has previously been adjudged to be incapacitated and who at the time of application has not been restored to partial capacity;
- (6) To any person who, when required by this law to take an examination, has failed to pass such examination;
- (7) To any person who has an unsatisfied judgment against such person, as defined in chapter 303, RSMo, until such judgment has been satisfied or the financial responsibility of such person, as defined in section [303.120] **303.020**, RSMo, has been established;
- (8) To any person whose application shows that the person has been convicted within one year prior to such application of violating the laws of this state relating to failure to stop after an accident and to disclose the person's identity or driving a motor vehicle without the owner's consent;
- (9) To any person who has been convicted more than twice of violating state law, or a county or municipal ordinance where the defendant was represented by or waived the right to an attorney in writing, relating to driving while intoxicated; except that, after the expiration of ten years from the date of conviction of the last offense of violating such law or ordinance relating to driving while intoxicated, a person who was so convicted may petition the circuit

court of the county in which such last conviction was rendered and the court shall review the person's habits and conduct since such conviction. If the court finds that the petitioner has not been convicted of any offense related to alcohol, controlled substances or drugs during the preceding ten years and that the petitioner's habits and conduct show such petitioner to no longer pose a threat to the public safety of this state, the court may order the director to issue a license to the petitioner if the petitioner is otherwise qualified pursuant to the provisions of sections 302.010 to 302.540. No person may obtain a license pursuant to the provisions of this subdivision through court action more than one time;

- (10) To any person who has been convicted twice within a five-year period of violating state law, or a county or municipal ordinance where the defendant was represented by or waived the right to an attorney in writing, of driving while intoxicated, or who has been convicted of the crime of involuntary manslaughter while operating a motor vehicle in an intoxicated condition. The director shall not issue a license to such person for five years from the date such person was convicted for involuntary manslaughter while operating a motor vehicle in an intoxicated condition or for driving while intoxicated for the second time. Any person who has been denied a license for two convictions of driving while intoxicated prior to July 27, 1989, shall have the person's license issued, upon application, unless the two convictions occurred within a five-year period, in which case, no license shall be issued to the person for five years from the date of the second conviction;
- (11) To any person who is otherwise disqualified pursuant to the provisions of sections 302.010 to 302.780, chapter 303, RSMo, or section 544.046, RSMo;
- (12) To any person who is under the age of eighteen years, if such person's parents or legal guardians file a certified document with the department of revenue stating that the director shall not issue such person a driver's license. Each document filed by the person's parents or legal guardians shall be made upon a form furnished by the director and shall include identifying information of the person for whom the parents or legal guardians are denying the driver's license. The document shall also contain identifying information of the person's parents or legal guardians. The document shall be certified by the parents or legal guardians to be true and correct. This provision shall not apply to any person who is legally emancipated. The parents or legal guardians may later file an additional document with the department of revenue which reinstates the person's ability to receive a driver's license.
- 302.063. 1. In addition to the requirement of section 302.171, the director of revenue shall not accept any application by any applicant for an operator's license or a temporary permit issued under section 302.130 who is fifteen to eighteen years of age and whose name has been submitted to the department of revenue by a public school in accordance with subsection 2 of this section.

11 12

13

15 16

17

18

19

20

21 22

23

24

25

26

27

28

29

30

31

32

33

34 35

36

37

38

39

40

- 6 2. Each public school district shall provide to the department of revenue, at least 7 one time for each semester of the school year, a list of the names of all students who are not in compliance with the standards for eligibility developed under the provisions of this 9 section.
  - 3. The department of elementary and secondary education shall develop a plan that includes, but is not limited to, elements that demonstrate effort on the student's part, such as attendance, and maintaining grades and achieving assessment scores consistent with their skills and abilities. The public school district shall ensure that students are aware of the department standards and provide multiple opportunities in the fifth grade year and subsequent years for students to receive information and participate in academic counseling in anticipation of meeting such standards. The department standards shall ensure that the student continues to make educational progress. The student shall be required to meet the standards in the academic year preceding such student's application for an operator's license or temporary permit. A student enrolled in public school who withdraws from public school and was not in compliance with the department standards for eligibility for an operator's license or temporary permit at the time of such withdrawal shall remain subject to the requirements of this section until such student demonstrates department standards have been achieved.
  - 4. If an applicant does not achieve the department standards, the applicant's driver's license test shall be postponed until the applicant demonstrates the department standards have been achieved. The department's plan shall create methods for demonstrating, no less frequently than once a semester, that standards have been met. The department standards shall also include a method for evaluating students who transfer into a school district after the age of fourteen who may not initially meet the department standards to prevent undue delay for that student to qualify.
  - 5. Any person who is an emancipated minor, as defined in section 302.171, who does not meet the qualifications prescribed in this section may request the school board of the school district in which such person resides to grant a waiver from the requirements of this section and such waiver shall be granted if the school board determines that having a license to operate a motor vehicle is in the best interests of that person. In addition, any person who withdraws from school and earns a GED shall be granted, upon request, a waiver from the requirements of this section.
  - 6. The department of elementary and secondary education, in cooperation with the department of revenue, shall promulgate a model or models for compliance with this section.
- 7. Any person who knowingly submits false information to the department under the provisions of this section is guilty of a class C misdemeanor. 42

44

45

46

47

48

49

50

8. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

302.171. 1. Beginning July 1, 2005, the director shall verify that an applicant for a driver's license is lawfully present in the United States before accepting the application. The director shall not issue a driver's license for a period that exceeds an applicant's lawful presence in the United States. The director may establish procedures to verify the lawful presence of the applicant and establish the duration of any driver's license issued under this section. An 5 application for a license shall be made upon an approved form furnished by the director. Every application shall state the full name, Social Security number, age, height, weight, color of eyes, sex, residence, mailing address of the applicant, and the classification for which the applicant has been licensed, and, if so, when and by what state, and whether or not such license has ever 10 been suspended, revoked, or disqualified, and, if revoked, suspended or disqualified, the date and reason for such suspension, revocation or disqualification and whether the applicant is 11 12 making a one dollar donation to promote an organ donation program as prescribed in subsection 2 of this section. A driver's license, nondriver's license, or instruction permit issued under this 13 chapter shall contain the applicant's legal name as it appears on a birth certificate or as legally changed through marriage or court order. No name change by common usage based on common 15 law shall be permitted. The application shall also contain such information as the director may 16 17 require to enable the director to determine the applicant's qualification for driving a motor 18 vehicle; and shall state whether or not the applicant has been convicted in this or any other state 19 for violating the laws of this or any other state or any ordinance of any municipality, relating to 20 driving without a license, careless driving, or driving while intoxicated, or failing to stop after 21 an accident and disclosing the applicant's identity, or driving a motor vehicle without the owner's 22 consent. The application shall contain a certification by the applicant as to the truth of the facts 23 stated therein. Every person who applies for a license to operate a motor vehicle who is less 24 than twenty-one years of age shall be provided with educational materials relating to the hazards 25 of driving while intoxicated, including information on penalties imposed by law for violation of the intoxication-related offenses of the state. Beginning January 1, 2001, if the applicant is 26 27 less than eighteen years of age, the applicant must comply with all requirements for the issuance 28 of an intermediate driver's license pursuant to section 302.178. An applicant who is less than 29 eighteen years of age and is not an emancipated minor shall meet the requirements of

32

33

34

35

36

3738

39

40

41

42

43

44

45

46 47

48

49

50 51

52

53

54

55

56 57

58

60

61

62

63 64

65

66

section 302.063 in order to receive a license issued under this chapter. As used in this section, the term "emancipated minor" is a person who is at least sixteen years of age, but less than eighteen years of age, who marries, enters active duty in the armed forces, or who the custodial parent or legal guardian has relinquished from parental control by express or implied consent, and who through employment or other means provides for such person's own food, shelter, and other cost-of-living expenses. For persons mobilized and deployed with the United States Armed Forces, an application under this subsection shall be considered satisfactory by the department of revenue if it is signed by a person who holds general power of attorney executed by the person deployed, provided the applicant meets all other requirements set by the director.

- 2. An applicant for a license may make a donation of one dollar to promote an organ donor program. The director of revenue shall collect the donations and deposit all such donations in the state treasury to the credit of the organ donor program fund established in sections 194.297 to 194.304, RSMo. Moneys in the organ donor program fund shall be used solely for the purposes established in sections 194.297 to 194.304, RSMo, except that the department of revenue shall retain no more than one percent for its administrative costs. The donation prescribed in this subsection is voluntary and may be refused by the applicant for the license at the time of issuance or renewal of the license. The director shall make available an informational booklet or other informational sources on the importance of organ donations to applicants for licensure as designed by the organ donation advisory committee established in sections 194.297 to 194.304, RSMo. The director shall inquire of each applicant at the time the licensee presents the completed application to the director whether the applicant is interested in making the one dollar donation prescribed in this subsection and whether the applicant is interested in inclusion in the organ donor registry and shall also specifically inform the licensee of the ability to consent to organ donation by completing the form on the reverse of the license that the applicant will receive in the manner prescribed by subsection 6 of section 194.240, RSMo. The director shall notify the department of health and senior services of information obtained from applicants who indicate to the director that they are interested in registry participation, and the department of health and senior services shall enter the complete name, address, date of birth, race, gender and a unique personal identifier in the registry established in subsection 1 of section 194.304, RSMo.
- 3. An applicant for a license may make a donation of one dollar to promote a blindness education, screening and treatment program. The director of revenue shall collect the donations and deposit all such donations in the state treasury to the credit of the blindness education, screening and treatment program fund established in section 192.935, RSMo. Moneys in the blindness education, screening and treatment program fund shall be used solely for the purposes established in section 192.935, RSMo, except that the department of revenue shall retain no

more than one percent for its administrative costs. The donation prescribed in this subsection is voluntary and may be refused by the applicant for the license at the time of issuance or renewal of the license. The director shall inquire of each applicant at the time the licensee presents the completed application to the director whether the applicant is interested in making the one dollar donation prescribed in this subsection.

- 4. Beginning July 1, 2005, the director shall deny the driving privilege of any person who commits fraud or deception during the examination process or who makes application for an instruction permit, driver's license, or nondriver's license which contains or is substantiated with false or fraudulent information or documentation, or who knowingly conceals a material fact or otherwise commits a fraud in any such application. The period of denial shall be one year from the effective date of the denial notice sent by the director. The denial shall become effective ten days after the date the denial notice is mailed to the person. The notice shall be mailed to the person at the last known address shown on the person's driving record. The notice shall be deemed received three days after mailing unless returned by the postal authorities. No such individual shall reapply for a driver's examination, instruction permit, driver's license, or nondriver's license until the period of denial is completed. No individual who is denied the driving privilege under this section shall be eligible for a limited driving privilege issued under section 302.309.
  - 5. All appeals of denials under this section shall be made as required by section 302.311.
- 6. The period of limitation for criminal prosecution under this section shall be extended under subdivision (1) of subsection 3 of section 556.036, RSMo.
- 7. The director may promulgate rules and regulations necessary to administer and enforce this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.
- 8. Notwithstanding any provisions of this chapter that requires an applicant to provide proof of lawful presence for renewal of a noncommercial driver's license, noncommercial instruction permit, or nondriver's license, an applicant who is sixty-five years and older and who was previously issued a Missouri noncommercial driver's license, noncommercial instruction permit, or Missouri nondriver's license is exempt from showing proof of lawful presence.
- 9. Notwithstanding any other provision of this chapter, if an applicant does not meet the requirements of subsection 8 of this section and does not have the required documents to prove lawful presence, the department may issue a one-year driver's license renewal. This one-time renewal shall only be issued to an applicant who previously has held a Missouri noncommercial driver's license, noncommercial instruction permit, or nondriver's license for a period of fifteen years or more and who does not have the required documents to prove lawful presence. After

the expiration of the one-year period, no further renewal shall be provided without the applicantproducing proof of lawful presence.

302.177. 1. To all applicants for a license or renewal to transport persons or property classified in section 302.015 who are at least twenty-one years of age and under the age of seventy, and who submit a satisfactory application and meet the requirements of sections 302.010 to 302.605, the director shall issue or renew such license; except that no license shall be issued if an applicant's license is currently suspended, canceled, revoked, disqualified, or deposited in lieu of bail. Such license shall expire on the applicant's birthday in the sixth year of issuance, unless the license must be issued for a shorter period due to other requirements of law or for transition or staggering of work as determined by the director. The license must be renewed on or before the date of expiration, which date shall be shown on the license.

- 2. To all applicants for a license or renewal to transport persons or property classified in section 302.015 who are less than twenty-one years of age or greater than sixty-nine years of age, and who submit a satisfactory application and meet the requirements of sections 302.010 to 302.605, the director shall issue or renew such license; except that no license shall be issued if an applicant's license is currently suspended, canceled, revoked, disqualified, or deposited in lieu of bail. Such license shall expire on the applicant's birthday in the third year of issuance, unless the license must be issued for a shorter period due to other requirements of law or for transition or staggering of work as determined by the director. The license must be renewed on or before the date of expiration, which date shall be shown on the license. A license issued under this section to an applicant who is over the age of sixty-nine and contains a school bus endorsement shall not be issued for a period that exceeds one year.
- 3. To all other applicants for a license or renewal of a license who are at least twenty-one years of age and under the age of seventy, and who submit a satisfactory application and meet the requirements of sections 302.010 to 302.605, the director shall issue or renew such license; except that no license shall be issued if an applicant's license is currently suspended, canceled, revoked, disqualified, or deposited in lieu of bail. Such license shall expire on the applicant's birthday in the sixth year of issuance, unless the license must be issued for a shorter period due to other requirements of law or for transition or staggering of work as determined by the director. The license must be renewed on or before the date of expiration, which date shall be shown on the license.
- 4. To all other applicants for a license or renewal of a license who are less than twenty-one years of age or greater than sixty-nine years of age, and who submit a satisfactory application and meet the requirements of sections 302.010 to 302.605, the director shall issue or renew such license; except that no license shall be issued if an applicant's license is currently suspended, canceled, revoked, disqualified, or deposited in lieu of bail. Such license shall expire on the applicant's birthday in the third year of issuance, unless the license must be issued for a

40

41

42

43

44

45

46

47

48 49

50

51

52

53

5455

56

shorter period due to other requirements of law or for transition or staggering of work as determined by the director. The license must be renewed on or before the date of expiration, which date shall be shown on the license.

- 5. The fee for a license issued for a period which exceeds three years under subsection 1 of this section shall be thirty dollars.
- 6. The fee for a license issued for a period of three years or less under subsection 2 of this section shall be fifteen dollars, except that the fee for a license issued for one year or less which contains a school bus endorsement shall be five dollars, except renewal fees shall be waived for applicants seventy years of age or older seeking school bus endorsements.
- 7. The fee for a license issued for a period which exceeds three years under subsection 3 of this section shall be fifteen dollars.
- 8. The fee for a license issued for a period of three years or less under subsection 4 of this section shall be seven dollars and fifty cents.
- 9. Beginning July 1, 2005, the director shall not issue a driver's license for a period that exceeds an applicant's lawful presence in the United States. The director may establish procedures to verify the lawful presence of the applicant and establish the duration of any driver's license issued under this section.
- 10. The director of revenue may adopt any rules and regulations necessary to carry out the provisions of this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

302.720. 1. Except when operating under an instruction permit as described in this section, no person may drive a commercial motor vehicle unless the person has been issued a commercial driver's license with applicable endorsements valid for the type of vehicle being operated as specified in sections 302.700 to 302.780. A commercial driver's instruction permit shall allow the holder of a valid license to operate a commercial motor vehicle when 5 accompanied by the holder of a commercial driver's license valid for the vehicle being operated 7 and who occupies a seat beside the individual, or reasonably near the individual in the case of buses, for the purpose of giving instruction in driving the commercial motor vehicle. A commercial driver's instruction permit shall be valid for the vehicle being operated for a period of not more than six months, and shall not be issued until the permit holder has met all other 10 requirements of sections 302.700 to 302.780, except for the driving test. A permit holder, unless 11 12 otherwise disqualified, may be granted one six-month renewal within a one-year period. The fee 13 for such permit or renewal shall be five dollars. In the alternative, a commercial driver's 14 instruction permit shall be issued for a thirty-day period to allow the holder of a valid driver's license to operate a commercial motor vehicle if the applicant has completed all other

requirements except the driving test. The permit may be renewed for one additional thirty-day period and the fee for the permit and for renewal shall be five dollars.

- 2. No person may be issued a commercial driver's license until he has passed written and driving tests for the operation of a commercial motor vehicle which complies with the minimum federal standards established by the Secretary and has satisfied all other requirements of the Commercial Motor Vehicle Safety Act of 1986 (Title XII of Pub. Law 99-570), as well as any other requirements imposed by state law. Applicants for a hazardous materials endorsement must also meet the requirements of the U.S. Patriot Act of 2001 (Title X of Public Law 107-56) as specified and required by regulations promulgated by the Secretary. Nothing contained in this subsection shall be construed as prohibiting the director from establishing alternate testing formats for those who are functionally illiterate; provided, however, that any such alternate test must comply with the minimum requirements of the Commercial Motor Vehicle Safety Act of 1986 (Title XII of Pub. Law 99-570) as established by the Secretary.
- (1) The written and driving tests shall be held at such times and in such places as the superintendent may designate. A twenty-five dollar examination fee shall be paid by the applicant upon completion of any written or driving test, except the examination fee shall be waived for applicants seventy years of age or older renewing a license with a school bus endorsement. The director shall delegate the power to conduct the examinations required under sections 302.700 to 302.780 to any member of the highway patrol or any person employed by the highway patrol qualified to give driving examinations.
- (2) The director shall adopt and promulgate rules and regulations governing the certification of third-party testers by the department of revenue. Such rules and regulations shall substantially comply with the requirements of 49 CFR Part 383, Section 383.75. A certification to conduct third-party testing shall be valid for one year, and the department shall charge a fee of one hundred dollars to issue or renew the certification of any third-party tester.
- (3) Beginning August 28, 2006, the director shall only issue or renew third-party tester certification to junior colleges or community colleges established under chapter 178, RSMo, or to private companies who own, lease, or maintain their own fleet and administer in-house testing to their employees, or to school districts and their agents that administer in-house testing to the school district's or agent's employees. Any third-party tester who violates any of the rules and regulations adopted and promulgated pursuant to this section shall be subject to having his certification revoked by the department. The department shall provide written notice and an opportunity for the third-party tester to be heard in substantially the same manner as provided in chapter 536, RSMo. If any applicant submits evidence that he has successfully completed a test administered by a third-party tester, the actual driving test for a commercial driver's license may then be waived.

- (4) Every applicant for renewal of a commercial driver's license shall provide such certifications and information as required by the secretary and if such person transports a hazardous material must also meet the requirements of the U.S. Patriot Act of 2001 (Title X of Public Law 107-56) as specified and required by regulations promulgated by the Secretary. Such person shall be required to take the written test for such endorsement. A twenty-five dollar examination fee shall be paid upon completion of such tests.
  - (5) The director shall have the authority to waive the driving skills test for any qualified military applicant for a commercial driver's license who is currently licensed at the time of application for a commercial driver's license. The director shall impose conditions and limitations to restrict the applicants from whom the department may accept alternative requirements for the skills test described in federal regulation 49 C.F.R. 383.77. An applicant must certify that, during the two-year period immediately preceding application for a commercial driver's license, all of the following apply:
    - (a) The applicant has not had more than one license;
    - (b) The applicant has not had any license suspended, revoked, or cancelled;
  - (c) The applicant has not had any convictions for any type of motor vehicle for the disqualifying offenses contained in this chapter or federal rule 49 C.F.R. 383.51(b);
  - (d) The applicant has not had more than one conviction for any type of motor vehicle for serious traffic violations;
  - (e) The applicant has not had any conviction for a violation of state or local law relating to motor vehicle traffic control, but not including any parking violation, arising in connection with any traffic accident, and has no record of an accident in which he or she was at fault;
  - (f) The applicant is regularly employed in a job requiring operation of a commercial motor vehicle and has operated the vehicle for at least sixty days during the two years immediately preceding application for a commercial driver's license. The vehicle must be representative of the commercial motor vehicle the driver applicant operates or expects to operate;
  - (g) The applicant, if on active duty, must provide a notarized affidavit signed by a commanding officer as proof of driving experience as indicated in paragraph (f) of this subdivision:
- 82 (h) The applicant, if honorably discharged from military service, must provide a form-DD214 or other proof of military occupational specialty;
  - (i) The applicant must meet all federal and state qualifications to operate a commercial vehicle; and
    - (i) The applicant will be required to complete all applicable knowledge tests.
  - 3. A commercial driver's license may not be issued to a person while the person is disqualified from driving a commercial motor vehicle, when a disqualification is pending in any

state or while the person's driver's license is suspended, revoked, or canceled in any state; nor may a commercial driver's license be issued unless the person first surrenders in a manner prescribed by the director any commercial driver's license issued by another state, which license shall be returned to the issuing state for cancellation.

- 4. Beginning July 1, 2005, the director shall not issue an instruction permit under this section unless the director verifies that the applicant is lawfully present in the United States before accepting the application. The director may, by rule or regulation, establish procedures to verify the lawful presence of the applicant under this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.
- 302.735. 1. An application shall not be taken from a nonresident after September 30, 2005. The application for a commercial driver's license shall include, but not be limited to, the applicant's legal name, mailing and residence address, if different, a physical description of the person, including sex, height, weight and eye color, the person's Social Security number, date of birth and any other information deemed appropriate by the director. The application shall also require, beginning September 30, 2005, the applicant to provide the names of all states where the applicant has been previously licensed to drive any type of motor vehicle during the preceding ten years.
- 2. A commercial driver's license shall expire on the applicant's birthday in the sixth year after issuance, unless the license must be issued for a shorter period due to other requirements of law or for transition or staggering of work as determined by the director, and must be renewed on or before the date of expiration. When a person changes such person's name an application for a duplicate license shall be made to the director of revenue. When a person changes such person's mailing address or residence the applicant shall notify the director of revenue of said change, however, no application for a duplicate license is required. A commercial license issued pursuant to this section to an applicant less than twenty-one years of age and seventy years of age and older shall expire on the applicant's birthday in the third year after issuance, unless the license must be issued for a shorter period as determined by the director.
- 3. A commercial driver's license containing a hazardous materials endorsement issued to an applicant who is between the age of twenty-one and sixty-nine shall not be issued for a period exceeding five years from the approval date of the security threat assessment as determined by the Transportation Security Administration.
- 4. The director shall issue an annual commercial driver's license containing a school bus endorsement to an applicant who is seventy years of age or older. The fee for such license shall be seven dollars and fifty cents; except renewal fees shall be waived for applicants seventy years of age or older seeking school bus endorsements.

- 5. A commercial driver's license containing a hazardous materials endorsement issued to an applicant who is seventy years of age or older shall not be issued for a period exceeding three years. The director shall not require such drivers to obtain a security threat assessment more frequently than such assessment is required by the Transportation Security Administration under the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT ACT) of 2001.
  - 6. The fee for a commercial driver's license or renewal commercial driver's license issued for a period greater than three years shall be forty dollars.
  - 7. The fee for a commercial driver's license or renewal commercial driver's license issued for a period of three years or less shall be twenty dollars.
    - 8. The fee for a duplicate commercial driver's license shall be twenty dollars.
  - 9. In order for the director to properly transition driver's license requirements under the Motor Carrier Safety Improvement Act of 1999 and the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT ACT) of 2001, the director is authorized to stagger expiration dates and make adjustments for any fees, including driver examination fees that are incurred by the driver as a result of the initial issuance of a transitional license required to comply with such acts.
  - 10. Within thirty days after moving to this state, the holder of a commercial driver's license shall apply for a commercial driver's license in this state. The applicant shall meet all other requirements of sections 302.700 to 302.780, except that the director may waive the driving test for a commercial driver's license as required in section 302.720 if the applicant for a commercial driver's license has a valid commercial driver's license from a state which has requirements for issuance of such license comparable to those in this state.
  - 11. Any person who falsifies any information in an application or test for a commercial driver's license shall not be licensed to operate a commercial motor vehicle, or the person's commercial driver's license shall be canceled, for a period of one year after the director discovers such falsification.
  - 12. Beginning July 1, 2005, the director shall not issue a commercial driver's license under this section unless the director verifies that the applicant is lawfully present in the United States before accepting the application. If lawful presence is granted for a temporary period, no commercial driver's license shall be issued. The director may, by rule or regulation, establish procedures to verify the lawful presence of the applicant and establish the duration of any commercial driver's license issued under this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.
- 13. (1) Effective December 19, 2005, notwithstanding any provisions of subsections 1 and 5 of this section to the contrary, the director may issue a nonresident commercial driver's

68

69 70

71

72

73 74

75

76

77

78

79

80

81

3

5

8

9

- license to a resident of a foreign jurisdiction if the United States Secretary of Transportation has determined that the commercial motor vehicle testing and licensing standards in the foreign jurisdiction do not meet the testing standards established in 49 C.F.R. Part 383.
  - (2) Any applicant for a nonresident commercial driver's license must present evidence satisfactory to the director that the applicant currently has employment with an employer in this state. The nonresident applicant must meet the same testing, driver record requirements, conditions, and is subject to the same disqualification and conviction reporting requirements applicable to resident commercial drivers.
  - (3) The nonresident commercial driver's license will expire on the same date that the documents establishing lawful presence for employment expire. The word "nonresident" shall appear on the face of the nonresident commercial driver's license. Any applicant for a Missouri nonresident commercial driver's license must first surrender any nonresident commercial driver's license issued by another state.
  - (4) The nonresident commercial driver's license applicant must pay the same fees as required for the issuance of a resident commercial driver's license.
  - 14. Foreign jurisdiction for purposes of issuing a nonresident commercial driver's license under this section shall not include any of the fifty states of the United States or Canada or Mexico.
  - 304.015. 1. All vehicles not in motion shall be placed with their right side as near the right-hand side of the highway as practicable, except on streets of municipalities where vehicles are obliged to move in one direction only or parking of motor vehicles is regulated by ordinance.
  - 2. Upon all public roads or highways of sufficient width a vehicle shall be driven upon the right half of the roadway, except as follows:
  - (1) When overtaking and passing another vehicle proceeding in the same direction pursuant to the rules governing such movement;
  - (2) When placing a vehicle in position for and when such vehicle is lawfully making a left turn in compliance with the provisions of sections 304.014 to [304.026] **304.025** or traffic regulations thereunder or of municipalities;
- 11 (3) When the right half of a roadway is closed to traffic while under construction or 12 repair;
- 13 (4) Upon a roadway designated by local ordinance as a one-way street and marked or 14 signed for one-way traffic.
- 3. It is unlawful to drive any vehicle upon any highway or road which has been divided into two or more roadways by means of a physical barrier or by means of a dividing section or delineated by curbs, lines or other markings on the roadway, except to the right of such barrier or dividing section, or to make any left turn or semicircular or U-turn on any such divided highway, except at an intersection or interchange or at any signed location designated by the

state highways and transportation commission or the department of transportation. The provisions of this subsection shall not apply to emergency vehicles, law enforcement vehicles or to vehicles owned by the commission or the department.

- 4. The authorities in charge of any highway or the state highway patrol may erect signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the center line of the highway, and all members of the Missouri highway patrol and other peace officers may direct traffic in conformance with such signs. When authorized signs have been erected designating off-center traffic lanes, no person shall disobey the instructions given by such signs.
- 5. Whenever any roadway has been divided into three or more clearly marked lanes for traffic, the following rules in addition to all others consistent herewith shall apply:
- (1) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety;
- (2) Upon a roadway which is divided into three lanes a vehicle shall not be driven in the center lane, except when overtaking and passing another vehicle where the roadway ahead is clearly visible and such center lane is clear of traffic within a safe distance, or in preparation for a left turn or where such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is sign-posted to give notice of such allocation;
- (3) Upon all highways any vehicle proceeding at less than the normal speed of traffic thereon shall be driven in the right-hand lane for traffic or as close as practicable to the right-hand edge or curb, except as otherwise provided in sections 304.014 to [304.026] **304.025**;
- (4) Official signs may be erected by the highways and transportation commission or the highway patrol may place temporary signs directing slow-moving traffic to use a designated lane or allocating specified lanes to traffic moving in the same direction and drivers of vehicles shall obey the directions of every such sign;
- (5) Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and except when a roadway has been divided into traffic lanes, each driver shall give to the other at least one-half of the main traveled portion of the roadway whenever possible.
- 6. All vehicles in motion upon a highway having [two] **three** or more lanes of traffic proceeding in the same direction shall be driven in the right-hand lane except when overtaking and passing another vehicle or when preparing to make a proper left turn or when otherwise directed by traffic markings, signs or signals.
- 7. All trucks registered for a gross weight of more than forty-eight thousand pounds shall not be driven in the far left-hand lane upon all interstate highways, freeways, or expressways within urbanized areas of the state having three or more lanes of traffic proceeding in the same direction. This restriction shall not apply when:

62 63

64

65 66

67

68 69

11

12

13

14

15

16

19

- 57 (1) It is necessary for the operator of the truck to follow traffic control devices that 58 direct use of a lane other than the right lane; or
- 59 (2) The right half of a roadway is closed to traffic while under construction or 60 repair.
  - 8. As used in subsection 7 of this section, "truck" means any vehicle, machine, tractor, trailer, or semitrailer, or any combination thereof, propelled or drawn by mechanical power and designed for or used in the transportation of property upon the highways. The term "truck" also includes a commercial motor vehicle as defined in section 301.010, RSMo.
  - **9.** Violation of this section shall be deemed an infraction unless such violation causes an immediate threat of an accident, in which case such violation shall be deemed a class C misdemeanor, or unless an accident results from such violation, in which case such violation shall be deemed a class A misdemeanor.
- 304.180. 1. No vehicle or combination of vehicles shall be moved or operated on any highway in this state having a greater weight than twenty thousand pounds on one axle, no combination of vehicles operated by transporters of general freight over regular routes as defined in section 390.020, RSMo, shall be moved or operated on any highway of this state having a greater weight than the vehicle manufacturer's rating on a steering axle with the maximum weight not to exceed twelve thousand pounds on a steering axle, and no vehicle shall be moved or operated on any state highway of this state having a greater weight than thirty-four thousand pounds on any tandem axle; the term "tandem axle" shall mean a group of two or more axles, arranged one behind another, the distance between the extremes of which is more than forty inches and not more than ninety-six inches apart.
  - 2. An "axle load" is defined as the total load transmitted to the road by all wheels whose centers are included between two parallel transverse vertical planes forty inches apart, extending across the full width of the vehicle.
  - 3. Subject to the limit upon the weight imposed upon a highway of this state through any one axle or on any tandem axle, the total gross weight with load imposed by any group of two or more consecutive axles of any vehicle or combination of vehicles shall not exceed the maximum load in pounds as set forth in the

18 following table:

20 Distance in feets

- 21 between the extremes
- 22 of any group of two or
- 23 more consecutive axles,
- 24 measured to the nearest

25	foot, except where									
26	indicated otherwise	Maximum load in pounds								
27	feet	2 axles	3 axles	4 axles	5 axles	6 axles				
28	4	34,000								
29	5	34,000								
30	6	34,000								
31	7	34,000								
32	8	34,000	34,000							
33	More than 8	38,000	42,000							
34	9	39,000	42,500							
35	10	40,000	43,500							
36	11	40,000	44,000							
37	12	40,000	45,000	50,000						
38	13	40,000	45,500	50,500						
39	14	40,000	46,500	51,500						
40	15	40,000	47,000	52,000						
41	16	40,000	48,000	52,500	58,000					
42	17	40,000	48,500	53,500	58,500					
43	18	40,000	49,500	54,000	59,000					
44	19	40,000	50,000	54,500	60,000					
45	20	40,000	51,000	55,500	60,500	66,000				
46	21	40,000	51,500	56,000	61,000	66,500				
47	22	40,000	52,500	56,500	61,500	67,000				
48	23	40,000	53,000	57,500	62,500	68,000				
49	24	40,000	54,000	58,000	63,000	68,500				
50	25	40,000	54,500	58,500	63,500	69,000				
51	26	40,000	55,500	59,500	64,000	69,500				
52	27	40,000	56,000	60,000	65,000	70,000				
53	28	40,000	57,000	60,500	65,500	71,000				
54	29	40,000	57,500	61,500	66,000	71,500				

55	30	40,000	58,500	62,000	66,500	72,000
56	31	40,000	59,000	62,500	67,500	72,500
57	32	40,000	60,000	63,500	68,000	73,000
58	33	40,000	60,000	64,000	68,500	74,000
59	34	40,000	60,000	64,500	69,000	74,500
60	35	40,000	60,000	65,500	70,000	75,000
61	36		60,000	66,000	70,500	75,500
62	37		60,000	66,500	71,000	76,000
63	38		60,000	67,500	72,000	77,000
64	39		60,000	68,000	72,500	77,500
65	40		60,000	68,500	73,000	78,000
66	41		60,000	69,500	73,500	78,500
67	42		60,000	70,000	74,000	79,000
68	43		60,000	70,500	75,000	80,000
69	44		60,000	71,500	75,500	80,000
70	45		60,000	72,000	76,000	80,000
71	46		60,000	72,500	76,500	80,000
72	47		60,000	73,500	77,500	80,000
73	48		60,000	74,000	78,000	80,000
74	49		60,000	74,500	78,500	80,000
75	50		60,000	75,500	79,000	80,000
76	51		60,000	76,000	80,000	80,000
77	52		60,000	76,500	80,000	80,000
78	53		60,000	77,500	80,000	80,000
79	54		60,000	78,000	80,000	80,000
80	55		60,000	78,500	80,000	80,000
81	56		60,000	79,500	80,000	80,000
82	57		60,000	80,000	80,000	80,000
83						

Notwithstanding the above table, two consecutive sets of tandem axles may carry a gross load of thirty-four thousand pounds each if the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six feet or more.

- 4. Whenever the state highways and transportation commission finds that any state highway bridge in the state is in such a condition that use of such bridge by vehicles of the weights specified in subsection 3 of this section will endanger the bridge, or the users of the bridge, the commission may establish maximum weight limits and speed limits for vehicles using such bridge. The governing body of any city or county may grant authority by act or ordinance to the state highways and transportation commission to enact the limitations established in this section on those roadways within the purview of such city or county. Notice of the weight limits and speed limits established by the commission shall be given by posting signs at a conspicuous place at each end of any such bridge.
- 5. Nothing in this section shall be construed as permitting lawful axle loads, tandem axle loads or gross loads in excess of those permitted under the provisions of Section 127 of Title 23 of the United States Code.
- 6. Notwithstanding the weight limitations contained in this section, any vehicle or combination of vehicles operating on highways other than the interstate highway system may exceed single axle, tandem axle and gross weight limitations in an amount not to exceed two thousand pounds. However, total gross weight shall not exceed eighty thousand pounds.
- 7. Notwithstanding any provision of this section to the contrary, the department of transportation shall issue a single-use special permit, or upon request of the owner of the truck or equipment, shall issue an annual permit, for the transporting of any concrete pump truck or well-drillers' equipment. The department of transportation shall set fees for the issuance of permits pursuant to this subsection. Notwithstanding the provisions of section 301.133, RSMo, concrete pump trucks or well-drillers' equipment may be operated on state-maintained roads and highways at any time on any day.
- 8. Notwithstanding the provision of this section to the contrary, the maximum gross vehicle limit and axle weight limit for any vehicle or combination of vehicles equipped with an idle reduction technology may be increased by a quantity necessary to compensate for the additional weight of the idle reduction system as provided for in 23 U.S.C. Section 127, as amended. In no case shall the additional weight increase allowed by this subsection be greater than four hundred pounds. Upon request by an appropriate law enforcement officer, the vehicle operator shall provide proof that the idle reduction technology is fully functional at all times and that the gross weight increase is not used for any purpose other than for the use of idle reduction technology.
- 304.230. 1. It shall be the duty of the sheriff of each county or city to see that the provisions of sections 304.170 to 304.230 are enforced, and any peace officer or police officer

of any county or city or any highway patrol officer shall have the power to arrest on sight or upon a warrant any person found violating or having violated the provisions of such sections. 4 Beginning January 1, 2009, only law enforcement officers that have been approved by the 6 Missouri state highway patrol under section 304.232, members of the Missouri state highway patrol, commercial vehicle enforcement officers, and commercial vehicle inspectors appointed under subsection 4 of this section shall have the authority to conduct random roadside examinations or inspections to determine compliance with sections 304.170 to 304.230, and only such officers shall have the authority, with or without 10 11 probable cause to believe that the size or weight is in excess of that permitted by sections 12 304.170 to 304.230, to require the driver, operator, owner, lessee, or bailee, to stop, drive, 13 or otherwise move to a location to determine compliance with sections 304.170 to 304.230. 14 Notwithstanding the provisions of this subsection, a law enforcement officer not certified 15 under section 304.232, may stop a vehicle that has a visible external safety defect relating 16 to the enforcement of the provisions of sections 304.170 to 304.230 that could cause immediate harm to the traveling public. Nothing in this section shall be construed as 17 preventing a law enforcement officer not certified under section 304.232 from stopping and 18 19 detaining a commercial motor vehicle when such officer has probable cause to believe that the commercial motor vehicle is being used to conduct illegal or criminal activities 20 unrelated to violations of sections 304.170 to 304.230. In the course of a stop, the law 21 22 enforcement officer shall identify to the driver the defect that caused the stop. If the 23 vehicle passes a comprehensive roadside inspection, the law enforcement officer, state 24 highway patrolman, or other authorized person shall issue such vehicle a Commercial 25 Vehicle Safety Alliance inspection decal to be affixed to the vehicle in a manner prescribed 26 by the Commercial Vehicle Safety Alliance. Once issued, the Commercial Vehicle Safety Alliance decal shall be valid for a period, in accordance with Commercial Vehicle Safety 27 Alliance guidelines, and shall exempt such vehicle from a standard vehicle equipment 28 29 inspection during such period. However, nothing shall exempt the operator from 30 subjecting such vehicle to an examination or inspection if the vehicle has a visible external safety defect relating to the enforcement of sections 304.170 to 304.230, or the law 31 32 enforcement officer stopping such vehicle has probable cause to believe that the size or weight of the vehicle is in excess of that permitted by sections 304.170 to 304.230. The 33 superintendent of the Missouri state highway patrol shall promulgate rules and regulations relating to the implementation of the provisions of this section. Any rule or portion of a 35 36 rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all 37 38 of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the

41

42

43 44

45

46

47 48

49

50 51

52

53

55

5657

58 59

60

61

62

63 64

65

67

68

70

71

72

73

74

75

general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

2. [The sheriff or] Any peace officer approved under section 304.232 or any highway patrol officer is hereby given the power to stop any such conveyance or vehicle as above described upon the public highway for the purpose of determining whether such vehicle is loaded in excess of the provisions of sections 304.170 to 304.230, and if he or she finds such vehicle loaded in violation of the provisions thereof he or she shall have a right at that time and place to cause the excess load to be removed from such vehicle; and provided further, that any regularly employed maintenance man of the department of transportation shall have the right and authority in any part of this state to stop any such conveyance or vehicle upon the public highway for the purpose of determining whether such vehicle is loaded in excess of the provisions of sections 304.170 to 304.230, and if he or she finds such vehicle loaded in violation of the provisions thereof, he or she shall have the right at that time and place to cause the excess load to be removed from such vehicle. When only an axle or a tandem axle group of a vehicle is overloaded, the operator shall be permitted to shift the load, if this will not overload some other axle or axles, without being charged with a violation; provided, however, the privilege of shifting the weight without being charged with a violation shall not extend to or include vehicles while traveling on the federal interstate system of highways. When only an axle or tandem axle group of the vehicle traveling on the federal interstate system of highways is overloaded and a court authorized to enforce the provisions of sections 304.170 to 304.230 finds that the overloading was due to the inadvertent shifting of the load changing axle weights in transit through no fault of the operator of the vehicle and that the load thereafter had been shifted so that no axle had been overloaded, then the court may find that no violation has been committed. The operator of any vehicle shall be permitted to back up and reweigh, or to turn around and weigh from the opposite direction. Any operator whose vehicle is weighed and found to be within five percent of any legal limit may request and receive a weight ticket, memorandum or statement showing the weight or weights on each axle or any combinations of axles. Once a vehicle is found to be within the limits of section 304.180 after having been weighed on any state scale and there is no evidence that any cargo or fuel has been added, no violation shall occur, but a presumption shall exist that cargo or fuel has been added if upon reweighing on another state scale the total gross weight exceeds the applicable limits of section 304.180 or 304.190. The highways and transportation commission of this state may deputize and appoint any number of their regularly employed maintenance men to enforce the provisions of such sections, and the maintenance men delegated and appointed in this section shall report to the

proper officers any violations of sections 304.170 to 304.230 for prosecution by such proper officers.

- 3. The superintendent of the Missouri state highway patrol may assign qualified persons who are not highway patrol officers to supervise or operate permanent or portable weigh stations used in the enforcement of commercial vehicle laws. These persons shall be designated as commercial vehicle inspectors and have limited police powers:
- (1) To issue uniform traffic tickets at a permanent or portable weigh station for violations of rules and regulations of the division of motor carrier [and railroad safety of the department of economic development] services of the highway and transportation commission and department of public safety, and laws, rules, and regulations pertaining to commercial motor vehicles and trailers and related to size, weight, fuel tax, registration, equipment, driver requirements, transportation of hazardous materials and operators' or chauffeurs' licenses, and the provisions of sections 303.024 and 303.025, RSMo;
- (2) To require the operator of any commercial vehicle to stop and submit to a vehicle and driver inspection to determine compliance with commercial vehicle laws, rules, and regulations, the provisions of sections 303.024 and 303.025, RSMo, and to submit to a cargo inspection when reasonable grounds exist to cause belief that a vehicle is transporting hazardous materials as defined by Title 49 of the Code of Federal Regulations;
- (3) To make arrests for violation of subdivisions (1) and (2) of this subsection. Commercial vehicle inspectors shall not have the authority to exercise the powers granted in subdivisions (1), (2) and (3) of this subsection until they have successfully completed training approved by the superintendent of the Missouri state highway patrol; nor shall they have the right as peace officers to bear arms.
- 4. The superintendent of the Missouri state highway patrol may appoint qualified persons, who are not members of the highway patrol, designated as commercial vehicle enforcement officers, with the powers:
- (1) To issue uniform traffic tickets for violations of laws, rules and regulations pertaining to commercial vehicles, trailers, special mobile equipment and drivers of such vehicles, and the provisions of sections 303.024 and 303.025, RSMo;
- (2) To require the operator of any commercial vehicle to stop and submit to a vehicle and driver inspection to determine compliance with commercial vehicle laws, rules, and regulations, compliance with the provisions of sections 303.024 and 303.025, RSMo, and to submit to a cargo inspection when reasonable grounds exist to cause belief that a vehicle is transporting hazardous materials as defined by Title 49 of the Code of Federal Regulations;
- (3) To make arrests upon warrants and for violations of subdivisions (1) and (2) of this subsection. Commercial vehicle officers selected and designated as peace officers by the superintendent of the Missouri state highway patrol are hereby declared to be peace

- officers of the state of Missouri, with full power and authority to make arrests solely for violations under the powers granted in subdivisions (1) to (3) of this subsection. Commercial vehicle enforcement officers shall not have the authority to exercise the powers granted in subdivisions (1), (2) and (3) of this subsection until they have successfully completed training approved by the superintendent of the Missouri state highway patrol and have completed the mandatory standards for the basic training and licensure of peace officers established by the peace officers standards and training commission under subsection 1 of section 590.030, RSMo. Commercial vehicle officers who are employed and performing their duties on August 28, 2008, shall have until July 1, 2012, to comply with the mandatory standards regarding police officer basic training and licensure. Commercial vehicle enforcement officers shall have the right as peace officers to bear arms.
  - 5. Any additional employees needed for the implementation of this section shall be hired in conformity with the provisions of the federal fair employment and antidiscrimination acts.
  - 6. Any part of this section which shall be construed to be in conflict with the axle or tandem axle load limits permitted by the Federal-Aid Highway Act, Section 127 of Title 23 of the United States Code (Public Law 85-767, 85th Congress) shall be null, void and of no effect.
  - 7. The superintendent may also appoint members of the patrol who are certified under the commercial vehicle safety alliance with the power to conduct commercial motor vehicle and driver inspections and to require the operator of any commercial vehicle to stop and submit to said inspections to determine compliance with commercial vehicle laws, rules, and regulations; compliance with the provisions of sections 303.024 and 303.025, RSMo; and to submit to a cargo inspection when reasonable grounds exist to cause belief that a vehicle is transporting hazardous materials as defined by Title 49 of the Code of Federal Regulations.
  - 304.232. 1. The Missouri state highway patrol shall approve procedures for the certification of municipal police officers, sheriffs, deputy sheriffs, and other law enforcement officials that enforce sections 304.170 to 304.230.
  - 2. The certification procedures shall meet the requirements of the memorandum of understanding between the state of Missouri and the Commercial Vehicle Safety Alliance or any successor organization, as periodically adopted or amended.
  - 3. Commercial motor vehicle safety data collection, management, and distribution by law enforcement officials shall be compatible with the information systems of the Missouri state highway patrol.
  - 4. The Missouri state highway patrol shall establish reasonable fees sufficient to recover the cost of training, recurring training, data collection and management, certifying, and additional administrative functions for law enforcement officials approved under this section.

- 5. The agencies for which law enforcement officials approved under this section shall adhere to the Motor Carrier Safety Assistance Program requirements under 49 Code of Federal Regulations Part 350 of the Federal Motor Carrier Safety Regulations.
- 6. The agencies for which law enforcement officials approved under this section shall be subject to periodic program reviews and be required to submit a commercial vehicle safety plan that is consistent with and incorporated into the statewide enforcement plan.
- 7. Beginning January 1, 2009, no local law enforcement officer may conduct a random commercial motor vehicle roadside inspection to determine compliance with the provisions of sections 304.170 to 304.230 unless the law enforcement officer has satisfactorily completed, as a part of his or her training, the basic course of instruction developed by the Commercial Vehicle Safety Alliance and has been approved by the Missouri state highway patrol under this section. Law enforcement officers authorized to enforce the provisions of sections 304.170 to 304.230 shall annually receive in-service training related to commercial motor vehicle operations, including but not limited to training in current federal motor carrier safety regulations, safety inspection procedures, and out-of-service criteria. The annual training requirements shall be approved by the superintendent of the state highway patrol.
- 8. Law enforcement officers who have received Commercial Vehicle Safety Alliance certification prior to January 1, 2009, shall be exempt from the provisions of this section and such officers shall be qualified to conduct random roadside inspections described under this section and section 304.230.
- 9. The superintendent of the state highway patrol shall promulgate rules and regulations necessary to administer the certification procedures and any other provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.
- 304.590. 1. As used in this section, the term "travel safe zone" means any area upon or around any highway, as defined in section 302.010, RSMo, which is visibly marked by the department of transportation; and when a highway safety analysis demonstrates fatal or disabling motor vehicle crashes exceed a predicted safety performance level for comparable roadways as determined by the department of transportation.

- 2. Upon a conviction or a plea of guilty by any person for a moving violation as defined in section 302.010, RSMo, or any offense listed in section 302.302, RSMo, the court shall double the amount of fine authorized to be imposed by law, if the moving violation or offense occurred within a travel safe zone.
- 3. Upon a conviction or plea of guilty by any person for a speeding violation under section 304.009 or 304.010, the court shall double the amount of fine authorized by law, if the violation occurred within a travel safe zone.
- 4. The penalty authorized under subsections 1 and 3 of this section shall only be assessed by the court if the department of transportation has erected signs upon or around a travel safe zone which are clearly visible from the highway and which state substantially the following message: "Travel Safe Zone -- Fines Doubled".
- 5. This section shall not be construed to enhance the assessment of court costs or the assessment of points under section 302.302, RSMo.
- 305.230. 1. The state highways and transportation commission shall administer an aeronautics program within this state. The commission shall encourage, foster and participate with the political subdivisions of this state in the promotion and development of aeronautics. The commission may provide financial assistance in the form of grants from funds appropriated for such purpose to any political subdivision or instrumentality of this state acting independently or jointly or to the owner or owners of any privately owned airport designated as a reliever by the Federal Aviation Administration for the planning, acquisition, construction, improvement or maintenance of airports, or for other aeronautical purposes.
  - 2. Any political subdivision or instrumentality of this state or the owner or owners of any privately owned airport designated as a reliever by the Federal Aviation Administration receiving state funds for the purchase, construction, or improvement, except maintenance, of an airport shall agree before any funds are paid to it to control by ownership or lease the airport for a period equal to the useful life of the project as determined by the commission following the last payment of state or federal funds to it. In the event an airport authority ceases to exist for any reason, this obligation shall be carried out by the governing body which created the authority.
  - 3. Unless otherwise provided, grants to political subdivisions, instrumentalities or to the owner or owners of any privately owned airport designated as a reliever by the Federal Aviation Administration shall be made from the aviation trust fund. In making grants, the commission shall consider whether the local community has given financial support to the airport in the past. Priority shall be given to airports with local funding for the past five years with no reduction in such funding. The aviation trust fund is a revolving trust fund exempt from the provisions of section 33.080, RSMo, relating to the transfer of funds to the general revenue funds of the state

- by the state treasurer. All interest earned upon the balance in the aviation trust fund shall be deposited to the credit of the same fund.
  - 4. The moneys in the aviation trust fund shall be administered by the commission and, when appropriated, shall be used for the following purposes:
  - (1) As matching funds on an up to ninety percent state/ten percent local basis, except in the case where federal funds are being matched, when the ratio of state and local funds used to match the federal funds shall be fifty percent state/fifty percent local:
  - (a) For preventive maintenance of runways, taxiways and aircraft parking areas, and for emergency repairs of the same;
    - (b) For the acquisition of land for the development and improvement of airports;
  - (c) For the earthwork and drainage necessary for the construction, reconstruction or repair of runways, taxiways, and aircraft parking areas;
    - (d) For the construction, or restoration of runways, taxiways, or aircraft parking areas;
  - (e) For the acquisition of land or easements necessary to satisfy Federal Aviation Administration safety requirements;
  - (f) For the identification, marking or removal of natural or manmade obstructions to airport control zone surfaces and safety areas;
  - (g) For the installation of runway, taxiway, boundary, ramp, or obstruction lights, together with any work directly related to the electrical equipment;
    - (h) For the erection of fencing on or around the perimeter of an airport;
  - (i) For purchase, installation or repair of air navigational and landing aid facilities and communication equipment;
  - (j) For engineering related to a project funded under the provisions of this section and technical studies or consultation related to aeronautics;
  - (k) For airport planning projects including master plans and site selection for development of new airports, for updating or establishing master plans and airport layout plans at existing airports;
  - (l) For the purchase, installation, or repair of safety equipment and such other capital improvements and equipment as may be required for the safe and efficient operation of the airport;
  - (m) If at least six million dollars is deposited into the aviation trust fund in the previous calendar year, up to two million dollars may be expended annually upon the study or promotion of expanded domestic or international scheduled commercial service, the study or promotion of intrastate scheduled commercial service, or to assist airport sponsors participating in a federally funded air service program supporting intrastate scheduled commercial service;
    - (2) As total funds, with no local match:

- 61 (a) For providing air markers, windsocks, and other items determined to be in the 62 interest of the safety of the general flying public;
  - (b) For the printing and distribution of state aeronautical charts and state airport directories on an annual basis, and a newsletter on a quarterly basis or the publishing and distribution of any public interest information deemed necessary by the commission;
    - (c) For the conducting of aviation safety workshops;
    - (d) For the promotion of aerospace education;
  - (3) As total funds with no local match, up to five hundred thousand dollars per year may be used for the cost of operating existing air traffic control towers that do not receive funding from the Federal Aviation Administration or the United States Department of Defense, except no more than one hundred sixty-seven thousand dollars per year may be used for any individual control tower.
  - (4) As total funds with a local match, up to five hundred thousand dollars per year may be used for air traffic control towers partially funded by the federal government under a cost-share program. Any expenditures under this program require a non-federal match, comprised of a ratio of fifty percent state and fifty percent local funds. No more than one hundred thousand dollars per year may be expended for any individual control tower.
  - 5. In the event of a natural or manmade disaster which closes any runway or renders inoperative any electronic or visual landing aid at an airport, any funds appropriated for the purpose of capital improvements or maintenance of airports may be made immediately available for necessary repairs once they are approved by the commission. For projects designated as emergencies by the commission, all requirements relating to normal procurement of engineering and construction services are waived.
  - 6. As used in this section, the term "instrumentality of the state" shall mean any state educational institution as defined in section 176.010, RSMo, or any state agency which owned or operated an airport on January 1, 1997, and continues to own or operate such airport.
  - 390.021. 1. The provisions of this section shall be applicable, notwithstanding any provisions of section 390.030 to the contrary.
  - 2. As used in chapter 622, RSMo, and in this section, except when the context clearly requires otherwise, the following terms shall mean:
- (1) "UCR implementing regulations", includes the regulations issued by the United States Secretary of Transportation under 49 U.S.C.A. Section 13908, the rules and regulations issued by the board of directors of the Unified Carrier Registration (UCR) plan under 49 U.S.C.A. Section 14504a, and the administrative rules adopted by the state highways and transportation commission under this section;

- 10 (2) "Unified Carrier Registration Act", or "UCR Act", sections 4301 to 4308 of the
  11 Unified Carrier Registration Act of 2005, within subtitle C of title IV of the "Safe,
  12 Accountable, Flexible, Efficient Transportation Equity Act: A Legacy For Users" or
  13 "SAFETEA-LU", Public Law 109-59 (119 Stat. 1761), as those sections have been and
  14 periodically may be amended.
  - 3. Except when the context clearly requires otherwise, the definitions of words in 49 U.S.C.A. Sections 13102, 13908, and 14504a shall apply to and determine the meaning of those words as used in this section.
  - 4. In carrying out and being subject to the provisions of the UCR Act, the Unified Carrier Registration (UCR) agreement, the UCR implementing regulations, and this section, but notwithstanding any other provisions of law to the contrary, the state highways and transportation commission may:
  - (1) Submit to the proper federal authorities, amend and carry out a state plan to qualify as a base-state and to participate in the UCR plan and administer the UCR agreement, and take other necessary actions as the designated representative of the state of Missouri so that:
  - (a) Missouri domiciled entities who must register and pay UCR registration fees are not required to register and pay those fees in a base-state other than the state of Missouri;
    - (b) The state of Missouri does not forfeit UCR registration fee revenues; and
  - (c) The state of Missouri may maintain its eligibility to receive the maximum allowable allocations of revenues derived under the UCR agreement;
  - (2) Administer the UCR registration of Missouri domiciled motor carriers, motor private carriers, brokers, freight forwarders and leasing companies, and such persons domiciled in nonparticipating states who have designated this state as their base-state under the UCR Act;
  - (3) Receive, collect, process, deposit, transfer, distribute, and refund UCR registration fees relating to any of the persons and activities described in this section. Notwithstanding any provisions of law to the contrary, these UCR registration fees collected by the commission are hereby designated as "nonstate funds" within the meaning of section 15, article IV, Constitution of Missouri, and the commission shall transmit these funds to the state department of revenue for deposit to the credit of the state highways and transportation department fund. The commission shall, from time to time, direct the payment of, and the director of revenue shall pay, the fees so deposited, in accordance with the provisions of the UCR Act, the UCR agreement, and the UCR implementing regulations. The director of revenue shall credit all income derived from the investment of these funds to the state highways and transportation department fund;

- 47 (4) Exercise all other powers, duties, and functions the UCR Act requires of or 48 allows a participating state or base-state;
  - (5) Promulgate administrative rules and issue specific orders relating to any of the persons and activities described in this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void;
  - (6) Enter into agreements with any agencies or officers of the United States, or of any state that participates or intends to enter into the UCR agreement; and
  - (7) Delegate any or all of the powers, duties, and functions of the commission under this section to any agent or contractor.
  - 5. After the commission has entered into the UCR plan on behalf of this state, the requirements in the UCR agreement shall take precedence over any conflicting requirements under chapter 622, RSMo, or this chapter. All subsequent changes, modifications, or additions to the UCR agreement shall be subject to the provisions of subsection 10 of this section and shall not become effective if disapproved by the general assembly in accordance with subsection 10 of this section.
  - 6. Notwithstanding any other provisions of law to the contrary, every motor carrier, motor private carrier, broker, freight forwarder, and leasing company that has its principal place of business within this state, and every such person who has designated this state as the person's base-state under the provisions of the UCR Act, shall timely complete and file with the state highways and transportation commission all the forms required by the UCR agreement and the UCR implementing regulations, and shall pay the required UCR registration fees to the commission.
  - 7. All powers of the commission under section 226.008, RSMo, are hereby made applicable to the enforcement of this section with reference to any person subject to any provision of this section. The chief counsel shall not be required to exhaust any administrative remedies before commencing any enforcement actions under this section. The provisions of chapter 622, RSMo, shall apply to and govern the practice and procedures before the courts in those actions.
  - 8. Except as required by the UCR Act, the UCR agreement, or the UCR implementing regulations, the provisions of this section and the rules adopted by the

commission under this section shall not be construed as exempting any motor carrier, or any person controlled by a motor carrier, from any of the requirements of chapter 622, RSMo, or this chapter, relating to the transportation of passengers or property in intrastate commerce.

- 9. Notwithstanding any other provision of this section to the contrary, Missouri elects to not apply the provisions of the UCR Act, the UCR Agreement, and the UCR implementing regulations to motor carriers and motor private carriers that operate solely in intrastate commerce transporting farm or dairy products, including livestock, from a farm, or property from farm to farm, or stocker and feeder livestock from farm to farm, or from market to farm.
- 10. The Missouri department of transportation shall monitor the federal government's activities in relation to the UCR Act, the UCR agreement, and the UCR implementing regulations and shall notify the joint committee on transportation in the event that any change, modification, or addition is made to the same. Upon such notification, the joint committee shall meet to discuss the federal-level modifications and, by the first legislative day of the next regular legislative session, submit a report detailing any such change, modification, or addition to the UCR agreement to the general assembly. After submission of a report by the joint committee, the changes, modifications, or additions to the UCR agreement shall become effective unless they are disapproved by a senate or house resolution adopted by a majority vote of both houses within thirty legislative days of the submission of the report by the joint committee to the general assembly.
- 390.372. 1. Notwithstanding any provision of law to the contrary, a provision, clause, covenant, or agreement contained in, collateral to, or affecting a motor carrier transportation contract that purports to indemnify, defend, or hold harmless, or has the effect of indemnifying, defending, or holding harmless, the promisee from or against any liability for loss or damage resulting from the negligence or intentional acts or omissions of the promisee is against the public policy of this state and is void and unenforceable.
  - 2. For the purposes of this section, the following terms shall mean:
- (1) "Motor carrier transportation contract", a contract, agreement, or understanding covering:
  - (a) The transportation of property for compensation or hire by the motor carrier;
- **(b)** The entrance on property by the motor carrier for the purpose of loading, 12 unloading, or transporting property for compensation or hire; or
  - (c) A service incidental to activity described in paragraphs (a) and (b) of this subdivision, including but not limited to, storage of property;

- "Motor carrier transportation contract" shall not include the Uniform Intermodal
   Interchange and Facilities Access Agreement administered by the Intermodal Association
   of North America or other agreements providing for the interchange, use or possession of
   intermodal chassis, or other intermodal equipment;
  - (2) "Promisee", the promisee and any agents, employees, servants, or independent contractors who are directly responsible to the promisee except for motor or rail carriers who are party to a motor carrier transportation contract, and such motor or rail carrier's agents, employees, servants, or independent contractors directly responsible to such motor or rail carriers.
    - 577.023. 1. For purposes of this section, unless the context clearly indicates otherwise:
- 2 (1) An "aggravated offender" is a person who:
- 3 (a) Has pleaded guilty to or has been found guilty of three or more intoxication-related 4 traffic offenses; or
  - (b) Has pleaded guilty to or has been found guilty of one or more intoxication-related traffic offense and, in addition, any of the following: involuntary manslaughter under subdivision (2) or (3) of subsection 1 of section 565.024, RSMo; murder in the second degree under section 565.021, RSMo, where the underlying felony is an intoxication-related traffic offense; or assault in the second degree under subdivision (4) of subsection 1 of section 565.060, RSMo; or assault of a law enforcement officer in the second degree under subdivision (4) of subsection 1 of section 565.082, RSMo;
    - (2) A "chronic offender" is:
  - (a) A person who has pleaded guilty to or has been found guilty of four or more intoxication-related traffic offenses; or
  - (b) A person who has pleaded guilty to or has been found guilty of, on two or more separate occasions, any combination of the following: involuntary manslaughter under subdivision (2) or (3) of subsection 1 of section 565.024, RSMo; murder in the second degree under section 565.021, RSMo, where the underlying felony is an intoxication-related traffic offense; assault in the second degree under subdivision (4) of subsection 1 of section 565.060, RSMo; or assault of a law enforcement officer in the second degree under subdivision (4) of subsection 1 of section 565.082, RSMo; or
  - (c) A person who has pleaded guilty to or has been found guilty of two or more intoxication-related traffic offenses and, in addition, any of the following: involuntary manslaughter under subdivision (2) or (3) of subsection 1 of section 565.024, RSMo; murder in the second degree under section 565.021, RSMo, where the underlying felony is an intoxication-related traffic offense; assault in the second degree under subdivision (4) of subsection 1 of section 565.060, RSMo; or assault of a law enforcement officer in the second degree under subdivision (4) of subsection 1 of section 565.082, RSMo;

- (3) An "intoxication-related traffic offense" is driving while intoxicated, driving with excessive blood alcohol content, involuntary manslaughter pursuant to subdivision (2) or (3) of subsection 1 of section 565.024, RSMo, murder in the second degree under section 565.021, RSMo, where the underlying felony is an intoxication-related traffic offense, assault in the second degree pursuant to subdivision (4) of subsection 1 of section 565.060, RSMo, assault of a law enforcement officer in the second degree pursuant to subdivision (4) of subsection 1 of section 565.082, RSMo, or driving under the influence of alcohol or drugs in violation of state law or a county or municipal ordinance, where the defendant was represented by or waived the right to an attorney in writing;
  - (4) A "persistent offender" is one of the following:
- 39 (a) A person who has pleaded guilty to or has been found guilty of two or more 40 intoxication-related traffic offenses;
  - (b) A person who has pleaded guilty to or has been found guilty of involuntary manslaughter pursuant to subdivision (2) or (3) of subsection 1 of section 565.024, RSMo, assault in the second degree pursuant to subdivision (4) of subsection 1 of section 565.060, RSMo, assault of a law enforcement officer in the second degree pursuant to subdivision (4) of subsection 1 of section 565.082, RSMo; and
  - (5) A "prior offender" is a person who has pleaded guilty to or has been found guilty of one intoxication-related traffic offense, where such prior offense occurred within five years of the occurrence of the intoxication-related traffic offense for which the person is charged.
  - 2. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or 577.012 who is alleged and proved to be a prior offender shall be guilty of a class A misdemeanor.
  - 3. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or 577.012 who is alleged and proved to be a persistent offender shall be guilty of a class D felony.
  - 4. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or section 577.012 who is alleged and proved to be an aggravated offender shall be guilty of a class C felony.
  - 5. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or section 577.012 who is alleged and proved to be a chronic offender shall be guilty of a class B felony.
- 6. No state, county, or municipal court shall suspend the imposition of sentence as to a prior offender, persistent offender, aggravated offender, or chronic offender under this section nor sentence such person to pay a fine in lieu of a term of imprisonment, section 557.011, RSMo, to the contrary notwithstanding. No prior offender shall be eligible for parole or probation until he or she has served a minimum of five days imprisonment, unless as a condition

75 76

77

78 79

80 81

82 83

84

85

86

87

88

89

90

91

94

95

98

100

101

- of such parole or probation such person performs at least thirty days of community service under the supervision of the court in those jurisdictions which have a recognized program for community service. No persistent offender shall be eligible for parole or probation until he or she has served a minimum of ten days imprisonment, unless as a condition of such parole or probation such person performs at least sixty days of community service under the supervision of the court. No aggravated offender shall be eligible for parole or probation until he or she has served a minimum of sixty days imprisonment. No chronic offender shall be eligible for parole or probation until he or she has served a minimum of two years imprisonment.
  - 7. The state, county, or municipal court shall find the defendant to be a prior offender, persistent offender, aggravated offender, or chronic offender if:
  - (1) The indictment or information, original or amended, or the information in lieu of an indictment pleads all essential facts warranting a finding that the defendant is a prior offender or persistent offender; and
  - (2) Evidence is introduced that establishes sufficient facts pleaded to warrant a finding beyond a reasonable doubt the defendant is a prior offender, persistent offender, aggravated offender, or chronic offender; and
  - (3) The court makes findings of fact that warrant a finding beyond a reasonable doubt by the court that the defendant is a prior offender, persistent offender, aggravated offender, or chronic offender.
  - 8. In a jury trial, the facts shall be pleaded, established and found prior to submission to the jury outside of its hearing.
  - 9. In a trial without a jury or upon a plea of guilty, the court may defer the proof in findings of such facts to a later time, but prior to sentencing.
  - 10. The defendant shall be accorded full rights of confrontation and cross-examination, with the opportunity to present evidence, at such hearings.
    - 11. The defendant may waive proof of the facts alleged.
- 92 12. Nothing in this section shall prevent the use of presentence investigations or 93 commitments.
  - 13. At the sentencing hearing both the state, county, or municipality and the defendant shall be permitted to present additional information bearing on the issue of sentence.
- 14. The pleas or findings of guilty shall be prior to the date of commission of the present offense.
  - 15. The court shall not instruct the jury as to the range of punishment or allow the jury, upon a finding of guilty, to assess and declare the punishment as part of its verdict in cases of prior offenders, persistent offenders, aggravated offenders, or chronic offenders.
  - 16. Evidence of a prior [convictions] conviction, plea of guilty, or finding of guilty in an intoxication-related traffic offense shall be heard and determined by the trial court out

103 of the hearing of the jury prior to the submission of the case to the jury, and shall include but not 104 be limited to evidence of convictions received by a search of the records of the Missouri uniform 105 law enforcement system maintained by the Missouri state highway patrol. After hearing the 106 evidence, the court shall enter its findings thereon. A [conviction of a violation of a municipal 107 or county ordinance in a county or municipal court for driving while intoxicated or all conviction 108 or a plea of guilty or a finding of guilty followed by incarceration, a fine, a suspended 109 imposition of sentence, suspended execution of sentence, probation or parole or any combination 110 thereof in any intoxication-related traffic offense in a state, county, municipal court, or any combination thereof, shall be treated as a prior [conviction] plea of guilty or finding of guilty 112 for purposes of this section.

